

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 93-593-W/S - ORDER NO. 94-646 ✓  
JULY 7, 1994

IN RE: Application of DeBordieu Property Owners	)	ORDER
Buyout Group Limited Partnership for	)	APPROVING
Establishment and Approval of Rates and	)	REQUEST TO
Charges for the Provision of Water and	)	WAIVE RULE
Sewer Services.	)	AND APPROVING
	)	TRANSFERS

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of the DeBordieu Property Owners Buyout Group Limited Partnership (the Partnership) for a waiver of notice and hearing requirements, and for approval of the transfer of the water and sewer utility to it pursuant to Regulation 103-803.

After due consideration, the Commission believes that the notice and hearing requirements present in R.103-504 and R.103-704 should be waived, and that approval of the transfer to the Partnership should be granted.

The water and sewer utility was originally owned by The DeBordieu Colony Club, Inc., which was a wholly-owned subsidiary of DeBordieu Corporation. Existing rates were established for the water utility by The DeBordieu Colony Club, Inc., as per Commission Order No. 18,572, in Docket No. 17,497, dated August 20, 1975. In 1986, DeBordieu Corporation was acquired by North

Inlet Corporation (NIC), which acquisition was acknowledged by the Commission in a letter from its Staff Counsel, dated August 29, 1986. In February 1991, the Resolution Trust Corporation (RTC), a division of the federal Office of Thrift Supervision (OTS) was appointed receiver of the assets of Peoples Heritage, a Federal Savings and Loan Association (Peoples). Included among Peoples' assets were loans made by Peoples to NIC to finance NIC's acquisition of DeBordieu Corporation and its assets, including the water and sewer utility. As a result of RTC's receivership, the water and sewer utility was transferred by NIC to RTC by deed dated May 1, 1991. From February 1991, until April 1993, the RTC operated the water and sewer utility serving DeBordieu Colony, utilizing the rates and charges approved in Order No. 18,572. On April 4, 1993, the RTC conveyed the assets under receivership, including the water and sewer utility to the Partnership by deed recorded April 6, 1993. The Partnership has, since that date, continued to charge the rates authorized in Order No. 18,572. The Partnership, according to the Application, was formed specifically for the purpose of extracting the DeBordieu Colony development from the control of a federal government agency and giving residents some autonomy over its future development.

As per the Application, to the extent any necessary approvals from the Commission were not obtained by the RTC, the Partnership has requested that the Commission waive any notice and hearing requirements and grant such approval pursuant to R.103-803. R.103-803 provides that:

In any case where compliance with any of these rules and regulations produces unusual hardship or difficulty, the application of such rule or regulation may be waived by the Commission upon a finding by the Commission that such waiver is in the public interest. (See also R.103-501 and R.103-701.)


It should be noted that the Commission has elected to waive the notice of hearing rules in a somewhat similar situation in Order No. 90-1178, dated December 19, 1990, which appeared in Docket No. 90-794-W/S. In that Docket, the Commission found that unusual hardship would occur if compliance was demanded with R.103-504 and R.103-704 in a situation where a trustee in bankruptcy proposed the sale of bankrupt assets, including a utility. It appears to this Commission that in the present situation, the RTC sold the assets to an independent partnership, which was formed for the purpose of allowing the residents some autonomy over the future development of The DeBordieu Colony, Inc. We believe that in this case substantial hardship would result if compliance with R.103-504 and R.103-704 was required, and we believe that waiver of the aforementioned rules is in the public interest. Further, because of the same circumstances as stated above, we believe that approval of the sale to the Partnership should be approved.

IT IS THEREFORE ORDERED THAT:

1. Compliance with R.103-502 and R.103-702 is hereby waived.
2. Approval of the transfer to the DeBordieu Property Owners Buyout Group Limited Partnership is hereby granted.
3. This Order shall remain in full force and effect until

further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)